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Kathy Raskind

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	)	Group Art Unit: 3622
	)	
James R. Muldoon	)	Examiner: Arthur D. Duran
	)	
Serial No. 09/612,156	)	
	)	
Filed: July 7, 2000	)	Docket No. MULD-36045
	)	
For: AUTOMATED COUPON	)	
DISTRIBUTION SYSTEM	)	

APPELLANT'S BRIEF (37 C.F.R. §1.192)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir:

This Appellant's Brief is submitted in triplicate, pursuant to the provisions of 37 C.F.R. §1.192(a), together with the requisite fee in the amount of \$165.00, pursuant to 37 C.F.R. §1.17(c.)

I. REAL PARTY IN INTEREST

The inventor, James R. Muldoon, is the real party in interest in this Appeal.

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II. RELATED APPEALS AND INTERFERENCES

There are no appeals nor interferences that will directly affect, or be directly affected by, or have bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

There are sixty-two claims pending in the application. Claims 1-9, 11-26, 28-41, 43-57, and 59-66 are pending and presented on appeal. These claims are reproduced in the Appendix attached hereto. As set forth in the Office Action mailed October 3, 2003, all pending claims were rejected under 35 USC §103 based upon the assertion of being obvious in light of Barnett (U.S. Patent No. 6,321,208) in view of Day (U.S. Patent No. 5,857,175). The Advisory Action mailed December 17, 2003 asserted that Applicant's Reply filed on December 4, 2003 failed to place the application in condition for allowance and reasserted the rejection of all claims upon the combination of Barnett and Day.

IV. STATUS OF AMENDMENTS

In an Amendment, mailed September 2, 2003, Applicant amended claims 1-4, 9, 11-14, 20, 26, 28-31, 37, 41, 43-46, 50, 57, and 59-62. In that Amendment, Applicant cancelled claims 10, 27, 42 and 58. The claims reproduced in the Appendix hereto reflect entry of these amendments, which occurred in the October 3, 2003 Office Action.

V. SUMMARY OF THE INVENTION

The present invention is directed to a method and system for distributing product entitlements to a retail store's frequent shopper program members (page 7, lines 10-12 of Specification). As discussed in the attached Declaration of Dr. Banks and in the Detailed Description of the Preferred Embodiments, page 7, second full paragraph, it is common for retailers to incorporate a frequent shopper program to track and transfer frequent shopper member purchase

information, including individual account numbers and related product purchase history detailing each purchase transaction when the frequent shopper program account is used. These programs began in the late 1980's and are well-known in the field. Current estimates place the use of frequent shopper card programs at 75% of the 30,000 supermarkets in the United States. However, as explained by Dr. Banks, the frequent shopper card programs have not become as productive as originally intended due to the lack of a mechanism for utilizing this data to target rebates and coupons to shoppers. The present invention is intended to overcome these drawbacks and provide a simple and effective method for targeting frequent shopper program members with rebates that would be applicable to their individual product purchase history.

As discussed on pages 8 and 9 of the Specification, the invention accesses the retailer's frequent shopper program data and identifies each frequent shopper account number. The invention determines the store locations of the retailer that the frequent shopper card program member historically frequents and determines a purchase cycle by product category for that frequent shopper and each frequent shopper account in the retailer's frequent shopper program member database. Consumption level patterns and "by brand" patterns are also determined for each individual frequent shopper card program member. Algorithms are then used to match the purchaser's cycle history to available commercial offers.

When a frequent shopper card program member enters the retail store, he or she enters their frequent shopper card program member ID (typically by swiping the retailer's frequent shopper program member card) at a dispenser device within the retail store. The available promotional offers to that particular shopper are then printed at the dispenser in the form of a list of entitlements or individually printed coupons. The promotional offers can be rebates or coupons for the retailer's brand of goods, pharmacy, meat department, produce department, or national brand coupons.

As the offers are redeemed at the point-of-sale of the store, the point-of-sale system reports the details of the transaction to the retailer's in-store program controller. The controller periodically uploads the frequent shopper transaction

data to the retailer's corporate server. The invention can then track the offers that were redeemed as each individual shoppers' product purchase history associated with the retailer's frequent shopper card program account is updated. The invention thus taps into the pre-existing database of product purchase history for each shopper belonging to the retailer's frequent shopper card program so that the retailer and product manufacturers can target these shoppers with promotions and entitlements which are specific to that shopper in a convenient manner while maintaining the shopper's privacy.

VI. ISSUES ON APPEAL

A. CLAIM REJECTIONS UNDER 35 U.S.C. §103

The issue on appeal is whether the subject matter of the pending claims (1-4, 9, 11-14, 20, 26, 28-31, 37, 41, 43-46, 50, 57, and 59-62) is obvious in view of Barnett (U.S. Patent No. 6,321,208) and Day (U.S. Patent No. 5,857,175).

VII. GROUPING OF CLAIMS ON APPEAL

Claims 1, 20, 37, 50, and 57 are independent claims. Claims 2-9 and 11-19 depend from independent claim 1. Claims 21-26 and 28-36 depend from independent claim 20. Claims 38-41 and 43-49 depend from independent claim 37. Claims 51-56 depend from independent claim 50. Claims 59-66 depend from independent claim 57.

The claims of the groups listed above do not stand or fall together as the claims are believed to be separately patentable. Each of the dependent claims is patentable at least because each depends, directly or indirectly, from an allowable independent claim. Additionally, each of the claims is patentable because it recites a combination of features not shown in the prior art applied by the Examiner including:

- i. obtaining from the retail store frequent shopper program member data, including individual frequent shopper program member account numbers and product purchase histories of the individual frequent shopper program member account numbers comprising past product purchases,

with or without a coupon, using the frequent shopper member account number at the retail store over a predetermined time period;

- ii. comparing the product purchase history of each member account number to a database of available product entitlements;
- iii. providing a dispenser within the retail store which is accessible to and activated by a frequent shopper program member by entering information identifying the member's frequent shopper member account number;
- iv. communicating previously selected entitlements for the frequent shopper member account number which activated the dispenser to the dispenser and printing the previously selected product entitlements for the frequent shopper program member;
- v. sorting the captured data by frequent shopper member account number;
- vi. sending the selected entitlements to predetermined host system computers within individual retail stores;
- vii. redeeming the product entitlements by matching the entitlements to universal product codes of purchased products scanned at point-of-sale check-out stand;
- viii. printing a list of the previously selected entitlements, including a list of products and rebate information for each listed product;
- ix. organizing the printed list in such a manner that the frequent shopper program member is led through the retail store from the dispenser to the point-of-sale check-out in a convenient manner;
- x. on the printed coupon or list, including the aisle number on which each product subject to the list of product entitlements can be found;
- xi. including a bar code on the list which identifies the frequent shopper program member account number;
- xii. relaying the previously selected list of entitlements sent to the

dispenser to a retail store computer, and particularly the central retail server, in order to allow the matching of the list of entitlements to products purchased at the point-of-sale check-out during the redeeming step;

xiii. periodically transferring frequent shopper program member transactional data from the retail store computer to the retail store's central server;

xiv. activating the in-store dispenser by swiping a card bearing a magnetic strip containing the frequent shopper program member account number;

xv. scanning a bar code containing the frequent shopper program member account number;

xvi. keying in a number which is associated with the frequent shopper program member account number.

#### VIII. ARGUMENTS-REJECTION UNDER 35 U.S.C. §103

As discussed above, currently pending claims 1-9, 11-26, 28-41, 43-57 and 59-66 stand rejected under 35 U.S.C. §103 as being unpatentable over Barnett in view of Day.

As discussed in the Specification of the instant application, as well as reiterated in the above Summary of the Invention section of this Appeal, the present invention resides in a process for distributing product entitlements in a retail store to shoppers who are members of the retail store's frequent shopper program. As will be more fully discussed herein with respect to the independent claims, the invention first obtains from the retail store frequent shopper program member data which includes the product purchase history of the individual frequent shopper program members, comprising past product purchases with or without a coupon, at the retail store over a predetermined time period. A product purchase history of each frequent shopper program member is compared to a database of available product entitlements, and selected available product entitlements are associated with each member account number based on the comparison. A frequent shopper program member activates a dispenser within the retail store, provided by the invention, by entering the member's frequent

shopper member account number. The previously selected entitlements for the frequent shopper member account number are printed at the dispenser.

In the June 2, 2003 Office Action, all claims were rejected under 35 U.S.C. §103 as being unpatentable over Barnett. Applicant and his attorney held a telephonic interview on August 11, 2003 with the Examiner and his Supervisor. During that Interview, Applicant and his attorney explained that the Barnett reference is directed to an Internet-based coupon generation and delivery system. Briefly, Barnett discloses a system whereby a user logs onto a web-site and becomes a member of the program. During this registration process, the user provides personal data such as gender, age, number of children, number of pets, etc. This personal information is used to provide a listing of available product entitlements or coupons to the end user who then selects and prints these at his personal computer. The end user then takes these printed coupons to whichever retail store he or she visits for redemption upon purchase of the product. Barnett discusses the possibility of tracking redeemed coupons and also the possibility of communicating electronically from the web-site server to a retail store the coupons selected by the end user. The end user must designate the retail store in such an electronic transfer. However, as discussed during the Interview, Barnett actually teaches away from the use of an in-store dispenser. In column 3, lines 53-63, Barnett discusses that previous coupon generating systems using kiosk-type printer stations located at a retail store fail to provide a secure and interactive coupon generation system in which these requests, select, store and manipulate and print coupons as desired. In column 3, line 66 - column 4, line 3, it is a stated object of the Barnett patent to provide an electronic coupon distribution system which can be easily accessed by masses of consumers by "using a readily available personal computer rather than needing to purchase special purpose equipment." Moreover, as discussed in the Interview, Barnett in no way discloses, teaches or even implies partnering with the retail store and utilizing the retail store's frequent shopper program as a vehicle to target entitlements to shoppers of that retail store.

In the September 2, 2003 Amendment, all of the independent claims (1, 20, 37, 50 and 57) were amended to as clearly as possible recite that the

invention resides in a process for distributing product entitlements in a retail store via in-store dispensers to shoppers who are members of the retail store's frequent shopper program.

The October 3, 2003 Office Action, responding to the Amendment, combined Barnett with Day in rejecting all of the pending claims under §103. Within pages 2-4 of the October 3, 2003 Office Action, the Examiner once again incorrectly asserted that Barnett disclosed a process for distributing product entitlements to frequent shopper program members, including the use of a dispenser within a retail store that can be accessed by users. However, on page 4, lines 15-16, the Examiner correctly states "Barnett does not explicitly disclose a frequent shopper program or tracking purchases without coupons or that the coupon dispenser is located within the retail store."

On page 4, lines 17-19, the Examiner incorrectly asserts that Day discloses distributing entitlements to shoppers who are members of the retail store's frequent shopper program, obtaining member account numbers and member purchase histories with or without a coupon over a period of time, and comparing the purchase history of the member to the available product entitlements. The Examiner correctly asserted on page 5 of the Office Action that Day further discloses a coupon dispenser that can be located at a variety of locations.

In responding to this Office Action, Applicant solicited the assistance of Dr. Michael E. Banks, who provided a Declaration in the December 2, 2003 Response, and which is attached to this Appeal. A review of the curriculum vitae of Dr. Banks will reveal that he has over thirty years experience in retail, advertising, Internet and customer relationship marketing in the United States and abroad and has a great deal of experience and expertise in retail advertising and marketing, particularly product promotion and coupon or product rebate systems and methodologies, including Internet discount offers, electronic coupons and in-store coupons.

Dr. Banks reviewed the October 3, 2003 Office Action and the cited Barnett and Day patents. In paragraph 2 of his Declaration, Dr. Banks stated that in his opinion no analyst or one of expertise in this field could conclude that the



Barnett and Day patents overlap with the invention due to the differences in methodology, process and product between each. In paragraphs 8-13, Dr. Banks discussed six basic differences between the invention and the Barnett patent. In paragraphs 15-20, Dr. Banks discusses eight specific areas of difference between the invention and the Day patent. Included in the differences in the Day patent and the present invention is that the Day patent creates a system completely independent of the retailer's frequent shopper program system. That is, Day issues its own cards to shoppers and creates its own database over time of the coupons redeemed by the Day program shoppers. Dr. Banks pointed out several disadvantages of this methodology. First, shoppers would have to carry and swipe two cards at the check-out instead of just one. Second, the Day cards could be used at a retailer's competitor store. Another disadvantage is that the Day system requires a two-way connection to the retailer's front-end point of sale which requires costly wiring and software integration. Lastly, as discussed in column 5, lines 30-50 of the Day patent, the problem of creating one's own database requires that the first few times the customer uses the Day card the Day computer will have little information about the customer's buying habits. To keep the customer interested in using the card, while purchasing behavior information is obtained over time, the customer is given broadcasted special offers which are available to everyone, as opposed to targeted special offers.

By utilizing the retailer's frequent shopper program member system and database, in accordance with the present invention, the customer does not need to carry or swipe two cards at the check-out. As the card is actually the retailer's frequent shopper program card, it cannot be used at competitor's stores but only within the retailer's stores who issued the card. The present invention utilizes a pre-existing database which contains purchase history obtained by the retailer, with or without coupons, over many months or years depending upon the shopper. Moreover, the cost and attendant problems of costly wiring and software integration are not present as the present invention utilizes the retailer's system.

As stated by M.P.E.P. 2141.02, in determining the differences between the prior art and the claims, the question under 35 U.S.C. §103 is not whether the

differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Citing, Stratoflex, Inc. v. Aeroquip Corp.*, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 218 USPQ 698 (Fed. Cir. 1983). Further, a prior art reference must be considered in its entirety, i.e., as a whole including portions that would lead away from the claimed invention. M.P.E.P. §2141.02, *citing, W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 US 851 (1984).

Applicant fails to see how the invention, considered as a whole, is rendered obvious by Barnett and Day, as discussed above. Barnett is directed to an Internet-based coupon distribution system requiring a home personal computer and which in no way discusses utilizing the retailer's frequent shopper program or database. Although the Day patent discloses the use of an in-store dispenser, it issues its own cards, creates its own database based upon the coupons redeemed, and is not retailer specific. When considering the references in their entirety, including portions that would lead away from the claimed invention, Applicant respectfully asserts that these references do not render the present invention obvious.

The Office Action has failed to establish the first basic criteria of a *prima facie* case of obviousness: that there must be some suggestion or motivation in either the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. The mere fact that the references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. M.P.E.P. §2143.01 *citing In re Mills*, 16 USPQ 2d 1430 (Fed. Cir. 1990).

With respect to the obviousness rejections, the "critical inquiry is whether 'there is something in the prior art as a whole to suggest the desirability, and thus the obviousness of making the combination.'" *Fromson v. Advance Offset Plate, Inc.*, 755 F.2d 1549, 1556, 225 USPQ 26, 31 (Fed. Cir. 1985) quoting *Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.*, 730 F.2d 1453, 1452, 221 USPQ 481, 488 (Fed. Cir. 1984). In other words, the "mere fact that the prior art could be so modified would not have made the modification obvious unless

the prior art suggested the desirability of the modification." *In re Gordon*, 773 F.2d 900, 902, 221 USPQ 1125, 1127 (Fed. Cir. 1984) citing *Carl Schenck, A.G. v. Nortron Corp.*, 713 F.2d 782, 787, 218 USPQ 698, 702 (Fed. Cir. 1983).

Applicant fails to see the suggestion or motivation in either of the references themselves or in the knowledge generally available to one of ordinary skill in the art (particularly in light of Dr. Banks' Declaration) to modify the references or to combine the reference teachings. Barnett explicitly describes the perceived disadvantages of using kiosk-type printer stations located at a retail store. Barnett further specifically states that Barnett's invention uses a readily available personal computer rather than needing to purchase special purpose equipment, such as an in-store dispenser. In contrast, Day is not an Internet-based coupon generating system, but rather a in-store kiosk-based system. Applicant contends that not only does the prior art fail to suggest the desirability of the combination, but that the combination is improper as it would alter the intended purpose and one of the primary objectives of the Barnett system. As the MPEP states "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." MPEP §2143.01 (citing *In re Ratti*, 123 U.S.P.Q. 349 (CCPA 1959)).

Furthermore, the "statute, §103, requires much more, i.e., that it would have been obvious to produce the claimed invention at the time it was made without the benefit of hindsight." *Orthokinetics, Inc. v. Safety Travel, Chairs, Inc.*, 806 F.2d 1565, 1575, 1 USPQ2d 1081, 1087 (Fed. Cir. 1986). "When prior art references require selective combination by the court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself." *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985) citing *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577 & n.14, 221 USPQ 929, 933 & n.14 (Fed. Cir. 1984).

Applicant contends that not only does the prior art fail to suggest the desirability of the combination, and that the combination is improper, but that

improper hindsight was used to selectively focus on aspects of the Day and Barnett patents without considering these references as a whole. This has been done even though there is no suggestion in the references for the desirability of their combination or modification, and the fact that combining the references as the Examiner has done would alter one of the primary objectives and intended purposes of the Barnett system, namely, avoidance of special purpose equipment such as in-store dispensers.

Even with the improper combination of the Barnett and Day patents, neither patent discloses the use of the retail store's frequent shopper program system and data. This aspect is of primary importance to the present invention and yields benefits and overcomes problems that have not been adequately addressed in the art. Dr. Banks, in his Declaration, recognizes the benefits of the present invention and states that he fails to see how the Barnett and Day patents render the invention obvious. Thus, Applicant respectfully asserts that the invention, as recited in the claims, is not rendered obvious by the Barnett and Day patents.

Each independent claim of the present invention (claims 1, 20, 37, 50 and 57) all are directed to a process for distributing product entitlements in a retail store to shoppers who are members of the retail store's frequent shopper program. Each independent claim recites that frequent shopper program member data is obtained or captured, which includes individual frequent shopper program member account numbers and product purchase histories of the individual frequent shopper program member account numbers comprising past product purchases, with or without a coupon, using the frequent shopper member account number at the retail store over a predetermined time period.

In Paragraphs 3-5 of the Banks' Declaration, Dr. Banks explains that supermarket frequent shopper programs are well-known and are designed to collect customer purchase data and create loyalty to the supermarkets. However, as Dr. Banks explains, supermarkets do not have the expertise to develop marketing promotions from their raw data they have collected from their frequent shopper programs and are not able to deliver them cheaply and discretely to their shoppers. Offers cannot be delivered by e-mail or direct mail due to the cost as

well as privacy issues. Even if the supermarkets were able to e-mail or direct mail the promotional rebates and offers to their shoppers, these targeted promotional delivery methods would suffer from “slippage” as these shoppers would forget to bring their offers to the store when they shop. Notwithstanding this, the supermarkets have continued their frequent shopper card programs as customers have embraced the loyalty card programs and there is a tremendous investment of millions of dollars in the database of each frequent shopper card program, which constitutes data by shopper, by item, by price, by date, over time, and by total shopping carts.

The present invention, as discussed above, described in the Specification, and explained in Dr. Banks’ Declaration accesses the historical purchase behaviors stored in the retailer’s total-basket frequent shopper program database to determine the kinds of offers that would be most attractive to each individual frequent shopper program member. The invention delivers these offers in-store via paper coupons or a printed list of offers. As the invention only uses the frequent shopper’s identification number, no names, addresses, e-mail addresses or telephone numbers are accessed and thus privacy issues are averted. As Dr. Banks explains in his Declaration in Paragraph 7, “the unique targeting capability of the present invention allows an infinite variety of offers, including variable discounts, flavors, and sizes.”

Neither Barnett nor Day is directed to a process for distributing product entitlements in a retail store to shoppers of the retail store’s frequent shopper program.

Independent claims 1 and 20 recite “obtaining from the retail store frequent shopper program member data”. The remaining independent claims recite “capturing frequent shopper program member data including individual member account numbers and related product purchase histories from a central server of the retail store”. These recitations are simply not taught, inferred, or even disclosed whatsoever in either the Barnett or Day patents. In fact, as discussed above, the Barnett and Day patents teach away from this concept by creating their own databases.

As stated by M.P.E.P. §2143.03 to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (citing *In re Royka*, 180 USPQ 580 (CCPA 1974). All words in a claim must be considered in judging the patentability of that claim against the prior art. *In re Wilson*, 165 USPQ 494, 496 (CCPA 1970). As neither Barnett nor Day teach, infer or even disclose whatsoever these recitations, *prima facie* obviousness of the claimed invention has not been established as all of the claim limitations are not taught or suggested by the cited prior art.

Each of the independent claims (1, 20, 37, 50 and 57) recites the step of providing a dispenser within the retail store which is accessible to and activated by frequent shopper program members. As discussed above, although Day teaches the use of an in-store dispenser, Barnett simply does not disclose such a dispenser and actually teaches away from the use of such dispensers within a retail store.

From the foregoing, Applicant respectfully asserts that it is abundantly clear that neither Day nor Barnett teach essential elements of the claimed invention. Thus, all of the independent claims (1, 20, 37, 50 and 57) are patentably distinct from the cited references and should be allowed. If an independent claim is non-obvious under 35 U.S.C. §103, then any claim depending therefrom is non-obvious. M.P.E.P. §2143.03 *citing In re Fine*, 5 USPQ 2d 1596 (Fed. Cir. 1988).

From the foregoing, Applicant believes that all of the independent claims and thus their dependents, are in condition for allowance. Applicant will now address a few key dependent claims, which are repeated as dependent claims after the initial set or which in some instances are incorporated into some of the independent claims.

Dependent claim 2 recites the step of sorting the captured retail store frequent shopper program member data by frequent shopper member account number. This is simply not disclosed or taught in either the Barnett or Day patents.

Dependent claim 3 recites the step of categorizing the product purchase history of each frequent shopper member, which comprises past product

purchases, with or without a coupon, into various product categories. This is simply not disclosed in either cited reference.

Dependent claim 9 specifies that the printing step in independent claim 1 includes printing a list of products and rebate information for each listed product. Such a list printed at the dispenser within the retail store is simply not disclosed by either cited reference.

Dependent claims 11 and 12 recite that the printed list is organized in such a manner, including the aisle number for each product on the list, such that the frequent shopper program member is led through the retail store from the dispenser to the point-of-sale check-out in a convenient manner. The Office Action correctly admits that neither Barnett nor Day teach these recitations. The Office Action, without support or evidence, simply states that this would have been obvious as grocery stores include aisle numbers.

Dependent claim 13 recites that the list includes a bar code that identifies the frequent shopper program member account number. Barnett and Day simply do not disclose this recitation.

Dependent claim 16 recites the step of periodically transferring frequent shopper program member transactional data from the retail store computer to the retail store's central server. As neither Day nor Barnett utilize the store's frequent shopper program member transactional data, neither of these references disclose this recitation.

#### IX. CONCLUSION

Based upon the foregoing, the rejection should be withdrawn and the claims allowed over Barnett and Day. The combination of Barnett and Day is improper. However, even when read in combination, Barnett and Day fail to disclose critical elements of the claimed invention.

X. APPENDIX OF CLAIMS

1. A process for distributing product entitlements in a retail store to shoppers who are members of the retail stores' frequent shopper program, comprising the steps of:

obtaining from the retail store frequent shopper program member data, including individual frequent shopper program member account numbers and product purchase histories of the individual frequent shopper program member account numbers comprising past product purchases, with or without a coupon, using the frequent shopper member account number at the retail store over a predetermined time period;

comparing the product purchase history of each member account number to a database of available product entitlements;

selecting available product entitlements to be associated with each member account number based on the comparison;

providing a dispenser within the retail store which is accessible to and activated by a frequent shopper program member by entering information identifying the member's frequent shopper member account number; and

communicating the previously selected entitlements for the frequent shopper member account number which activated the dispenser to the dispenser and printing the previously selected product entitlements for the frequent shopper program member.

2. The process of claim 1, including the step of sorting the captured data by frequent shopper member account number.



3. The process of claim 1, including the step of categorizing the product purchase history of each frequent shopper member account number into various product categories.

4. The process of claim 1, including the step of sending the selected entitlements to predetermined host system computers within individual retail stores.

5. The process of claim 1, wherein the printing step includes printing coupons representing the previously selected entitlements.

6. The process of claim 5, wherein the printed coupon includes product information, rebate information and a bar code thereon.

7. The process of claim 6, including the step of redeeming the product entitlements by matching the entitlements to universal product codes of purchased products scanned at a point-of-sale checkout stand.

8. The process of claim 7, wherein the redeeming step includes scanning the bar code on the printed coupon at the point-of-sale checkout.

9. The process of claim 1, wherein the printing step includes printing a list of the previously selected entitlements, including a list of products and rebate information for each listed product.

11. The process of claim 9, wherein the printed list is organized in such a manner that the frequent shopper program member is led through the retail store from the dispenser to the point-of-sale checkout in a convenient manner.

12. The process of claim 9, wherein the printed coupons or list includes the aisle number on which each product subject to the list of product entitlements can be found.

13. The process of claim 9, wherein the list includes a bar code which identifies the frequent shopper program member account number.

14. The process of claim 9, including the step of relaying the previously selected list of entitlements sent to the dispenser to a retail store computer in order to allow the matching of the list of entitlements to products purchased at the point-of-sale checkout during redeeming step.

15. The process of claim 14, including the step of relaying the previously selected list of entitlements to the central retailer server.

16. The process of claim 1, including the step of periodically transferring frequent shopper program member transactional data from the retail store computer to the retail store's central server.

17. The process of claim 1, wherein the activating step includes the step of swiping a card bearing a magnetic strip containing the frequent shopper program member account number.

18. The process of claim 1, wherein the activating step includes the step of scanning a bar code containing the frequent shopper program member account number.

19. The process of claim 1, wherein the activating step includes the step of keying in a number which is associated with the frequent shopper program member account number.

20. A process for distributing product entitlements in a retail store to shoppers who are members of the retail stores' frequent shopper program, comprising the steps of:

obtaining from the retail store frequent shopper program member

data, including individual frequent shopper program member account numbers and product purchase histories of the individual frequent shopper program member account numbers comprising past product purchases, with or without a coupon, using the frequent shopper member account number at the retail store over a predetermined time period;

    sorting the frequent shopper program member data by frequent shopper member account number and categorizing the product purchase history of each frequent shopper member account number into various product categories;

    comparing the product purchase history of each frequent shopper member account number to a database of available product entitlements;

    selecting available product entitlements to be associated with each frequent shopper member account number based on the comparison;

    providing a dispenser within the retail store which is accessible to and activated by a frequent shopper program member by entering information identifying the member's frequent shopper member account number; and

    communicating the previously selected entitlements for the frequent shopper member account number which activated the dispenser to the dispenser and automatically printing the previously selected product entitlements for the frequent shipper member.

21. The process of claim 20, including the step of sending the selected entitlements to predetermined host system computers within individual retail stores.

22. The process of claim 20, wherein the printing step includes printing coupons representing the previously selected entitlements.

23. The process of claim 22, wherein the printed coupon includes product information, rebate information and a bar code thereon.

24. The process of claim 23, including the step of redeeming the product entitlements by matching the entitlements to universal product codes of purchased products scanned at a point-of-sale checkout stand.

25. The process of claim 24, wherein the redeeming step includes scanning the bar code on the printed coupon at the point-of-sale checkout.

26. The process of claim 20, wherein the printing step includes printing a list of the previously selected entitlements, including a list of products and rebate information for each listed product.

28. The process of claim 26, wherein the printed list is organized in such a manner that the frequent shopper program member is led through the retail store from the dispenser to the point-of-sale checkout in a convenient manner.

29. The process of claim 28, wherein the printed list includes the aisle number on which each product subject to the list of product entitlements can be found.

30. The process of claim 27, wherein the list includes a bar code which identifies the frequent shopper program member account number.

31. The process of claim 27, including the step of relaying the previously selected list of entitlements sent to the dispenser to a retail store computer in order to allow the matching of the list of entitlements to products purchased at the point-of-sale checkout during redeeming step.

32. The process of claim 31, including the step of relaying the previously selected list of entitlements to the central retailer server.

33. The process of claim 20, including the step of periodically transferring frequent shopper program member transactional data from the retail store computer to the retail store's central server.

34. The process of claim 20, wherein the activating step includes the step of swiping a card bearing a magnetic strip containing the frequent shopper program member account number.

35. The process of claim 20, wherein the activating step includes the step of scanning a bar code containing the frequent shopper program member account number.

36. The process of claim 20, wherein the activating step includes the step of keying in a number which is associated with the frequent shopper program member account number.

37. A process for distributing product entitlements in a retail store to shoppers who are members of the retail stores' frequent shopper program, comprising the steps of:

capturing frequent shopper program member data including individual member account numbers and related product purchase histories from a central server of the retail store using a computer network and transferring the captured data to a central host system database, wherein the product purchase histories of the individual frequent shopper program member account numbers comprise past product purchases, with or without a coupon, using the frequent shopper member account number at the retail store over a predetermined time period;

sorting the captured data by frequent shopper member account number and categorizing the product purchase history of each frequent shopper account number into various product categories;

comparing the product purchase history of each frequent shopper member account number to a database of available product entitlements;

selecting available product entitlements to be associated with each frequent shopper member account number based on the comparison;  
sending the selected entitlements to a retail store host computer;  
providing a dispenser within the retail store which is accessible to and activated by a frequent shopper program member by entering information identifying the member's frequent shopper member account number;  
communicating the previously selected entitlements for the frequent shopper member account number which activated the dispenser to the dispenser and automatically printing the previously selected product entitlements;  
redeeming the product entitlements by matching the entitlements to universal product codes of purchased products scanned at a point-of-sale checkout stand; and  
periodically transferring frequent shopper program member transactional data from the retail store to the retail store's central server.

38. The process of claim 37, wherein the printing step includes printing coupons representing the previously selected entitlements.

39. The process of claim 38, wherein the printed coupon includes product information, rebate information and a bar code thereon.

40. The process of claim 39, wherein the redeeming step includes scanning the bar code on the printed coupon at the point-of-sale checkout.

41. The process of claim 37, wherein the printing step includes printing a list of the previously selected entitlements including a list of products and rebate information for each listed product.

43. The process of claim 41, wherein the printed list is organized in such a manner that the frequent shopper program member is led through the retail store from the dispenser to the point-of-sale checkout in a convenient manner.

44. The process of claim 43, wherein the printed list includes the aisle number on which each product subject to the list of product entitlements can be found.

45. The process of claim 41, wherein the list includes a bar code which identifies the frequent shopper program member account number.

46. The process of claim 41, including the step of relaying the previously selected list of entitlements sent to the dispenser to a retail store computer in order to allow the matching of the list of entitlements to products purchased at the point-of-sale checkout during redeeming step.

47. The process of claim 37, wherein the activating step includes the step of swiping a card bearing a magnetic strip containing the frequent shopper program member account number.

48. The process of claim 37, wherein the activating step includes the step of scanning a bar code containing the frequent shopper program member account number.

49. The process of claim 37, wherein the activating step includes the step of keying in a number which is associated with the frequent shopper program member account number.

50. A process for distributing product entitlements in a retail store to shoppers who are members of the retail stores' frequent shopper program, comprising the steps of:

capturing frequent shopper program member data including individual member account numbers and related product purchase histories from a central server of the retail store using a computer network and transferring the captured data to a central host system database, wherein the product purchase histories of the individual frequent shopper program member account numbers comprise past

product purchases, with or without a coupon, using the frequent shopper member account number at the retail store over a predetermined time period;

    sorting the captured data by frequent shopper member account number and categorizing the product purchase history of each frequent shopper account number into various product categories;

    comparing the product purchase history of each frequent shopper member account number to a database of available product entitlements;

    selecting available product entitlements to be associated with each frequent shopper member account number based on the comparison;

    sending the selected entitlements to a retail store host;

    providing a dispenser within the retail store which is accessible to and activated by a frequent shopper program member by entering information identifying the member's frequent shopper member account number;

    communicating the previously selected entitlements for the frequent shopper member account number which activated the dispenser to the dispenser and printing the previously selected product entitlements in the form of coupons; and

    redeeming the product entitlements by matching the entitlements to universal product codes of purchased products scanned at a point-of-sale checkout stand.

51. The process of claim 50, wherein the printed coupon includes product information, rebate information and a bar code thereon.

52. The process of claim 51, wherein the redeeming step includes scanning the bar code on the printed coupon at the point-of-sale checkout.

53. The process of claim 50, including the step of periodically transferring frequent shopper program member transactional data from the retail store computer to the retail store's central server.



54. The process of claim 50, wherein the activating step includes the step of swiping a card bearing a magnetic strip containing the frequent shopper program member account number.

55. The process of claim 50, wherein the activating step includes the step of scanning a bar code containing the frequent shopper program member account number.

56. The process of claim 50, wherein the activating step includes the step of keying in a number which is associated with the frequent shopper program member account number.

57. A process for distributing product entitlements in a retail store to shoppers who are members of the retail stores' frequent shopper program, comprising the steps of:

- capturing frequent shopper program member data including individual member account numbers and related product purchase histories from a central server of the retail store using a computer network and transferring the captured data to a central host system database, wherein the product purchase histories of the individual frequent shopper program member account numbers comprise past product purchases, with or without a coupon, using the frequent shopper member account number at the retail store over a predetermined time period;

- sorting the captured data by frequent shopper member account number and categorizing the product purchase history of each frequent shopper account number into various product categories;

- comparing the product purchase history of each frequent shopper member account number to a database of available product entitlements;

- selecting a list of available product entitlements to be associated with each frequent shopper member account number based on the comparison;

- sending the selected list of entitlements to a retail store host computer;

- providing a dispenser within the retail store which is accessible to and activated by a frequent shopper program member by entering information identifying the member's frequent shopper member account number;

communicating the previously selected list of entitlements for the frequent shopper member account number which activated the dispenser to the dispenser and printing the previously selected product entitlements in the form of a list of products and rebate information for each listed product; and

redeeming the product entitlements by matching the entitlements to universal product codes of purchased products scanned at a point-of-sale checkout stand.

59. The process of claim 57, wherein the printed list is organized in such a manner that the frequent shopper program member is led through the retail store from the dispenser to the point-of-sale checkout in a convenient manner.

60. The process of claim 59, wherein the printed list includes the aisle number on which each product subject to the list of product entitlements can be found.

61. The process of claim 57, wherein the list includes a bar code which identifies the frequent shopper program member account number.

62. The process of claim 57, including the step of relaying the previously selected list of entitlements sent to the dispenser to a retail store computer in order to allow the matching of the list of entitlements to products purchased at the point-of-sale checkout during redeeming step.

63. The process of claim 57, including the step of periodically transferring frequent shopper program member transactional data from the retail store computer to the retail store's central server.

64. The process of claim 57, wherein the activating step includes the step of swiping a card bearing a magnetic strip containing the frequent shopper program member account number.

65. The process of claim 57, wherein the activating step includes the step of scanning a bar code containing the frequent shopper program member account number.

66. The process of claim 57, wherein the activating step includes the step of keying in a number which is associated with the frequent shopper program member account number.

XI. OTHER MATERIAL THAT APPELLANT CONSIDERS  
NECESSARY/DESIRABLE

The Declaration of Dr. Michael E. Banks is attached hereto.

Respectfully submitted,

KELLY BAUERSELD LOWRY & KELLEY, LLP

A handwritten signature in black ink, appearing to read 'Aaron T. Borrowman', is written over a horizontal line. The signature is fluid and cursive, with a large loop at the end.

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